

**Subpart D—Project Development**

- 941.401 Site and property acquisition.  
 941.402 Project design and construction.  
 941.403 Acceptance of work and contract settlement.  
 941.404 Completion of development.

Approval No.	Sections
2577-0033	941.207, 941.301, 941.303, 941.304, 941.606, 941.610.
2577-0036	941.205, 941.404.
2577-0039	941.402.

**Subpart E—Performance Review**

- 941.501 HUD review of PHA performance; sanctions.

**Subpart F—Public/Private Partnerships for the Mixed Finance Development of Public Housing Units**

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 941.616 Sanctions.

AUTHORITY: 42 U.S.C. 1437b, 1437c, 1437g, and 3535(d).

SOURCE: 45 FR 60838, Sept. 12, 1980, unless otherwise noted. Redesignated at 49 FR 6714, Feb. 23, 1984.

**Subpart A—General****§ 941.101 Purpose and scope.**

(a) *Purpose.* The U.S. Housing Act of 1937 (Act), 42 U.S.C. 1437, authorizes HUD to assist public housing agencies (PHAs) with the development and operation of low-income housing projects and financial assistance in the form of grants (42 U.S.C. 1437c, 1437g, and 1437l). The purpose of the program is to develop units which serve the needs of public housing residents over the long term and have the lowest possible life cycle costs, taking into account future operating and replacement costs, as well as original capital investments.

(b) *Scope.* This part is the regulation under which a PHA develops low-income housing (excluding Indian housing), herein called public housing.

(c) *Approved information collections.* The following sections of this part have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (42 U.S.C. 3501-3520) and assigned the OMB approval numbers indicated:

[61 FR 38016, July 22, 1996, as amended at 64 FR 13511, Mar. 19, 1999]

EFFECTIVE DATE NOTE: At 61 FR 38016, July 22, 1996, § 941.101 was revised. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**§ 941.102 Development methods and funding.**

(a) *Methods.* A PHA may use any generally accepted method of development including, but not limited to, conventional, turnkey, acquisition with or without rehabilitation, mixed-finance, and force account.

(1) *Conventional.* Under this method, the PHA is responsible for selecting a site or property and designing the project. The PHA advertises for competitive bids to build or rehabilitate the development on the PHA-owned site. The PHA awards a construction contract in accordance with 24 CFR part 85. The contractor receives progress payments from the PHA during construction or rehabilitation and a final payment upon completion of the project in accordance with the construction contract. The conventional method may be used for either new construction or rehabilitation.

(2) *Turnkey.* The turnkey method involves the advertisement and selection of a turnkey developer by the PHA, based on the best housing package for a site or property owned or to be purchased by the developer. Following HUD approval of the PHA's full proposal, the developer prepares the design and construction documents. The PHA and the developer execute the contract of sale to implement the PHA's full proposal. The developer is responsible for providing a completed housing project, which includes obtaining construction financing. Upon completion of project construction or rehabilitation in accordance with the contract of sale, the PHA purchases the development from the developer. This

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method may be used for either new construction or rehabilitation.

(3) *Acquisition.* The acquisition method involves a purchase of existing property that requires little or no repair work. Any needed repair work is completed after acquisition, either by the PHA contracting to have the work done or by having the staff of the PHA perform the work.

(4) *Mixed-finance.* This method involves financing from both public and private sources and may involve ownership of the public housing units by an entity other than the PHA. This method of development may be carried out by a PHA only in accordance with the requirements set forth in subpart F.

(5) *Force account.* The force account method involves use of PHA staff to carry out new construction or rehabilitation. A PHA may only develop a full proposal based on the force account method if HUD has determined that the PHA has the capability to develop successfully the public housing units using this method.

(b) *Funding.* A PHA may develop public housing with:

(1) Development funds reserved by HUD for that purpose;

(2) Modernization funds under section 14 of the Act (42 U.S.C. 1437l), to the extent authorized by law and under procedures approved by HUD; and/or

(3) Funds available to it from any other source, consistent with §941.306(e), or as may be otherwise approved by HUD.

(c) *Limit on number of units*—(1) *General.* A PHA may not develop public housing pursuant to this part beyond the lesser of the number of units that the PHA had under ACC on August 21, 1996, or the number of units for which it was receiving operating subsidy on that date, unless authorized by HUD. HUD may condition such authorization on the PHA's agreement that such incremental units, once developed, will be ineligible for capital and/or operating subsidies from HUD.

(2) *Replacement housing units.* With respect to units constructed to replace public housing units that were demolished or disposed of, a PHA may use (in whole or in part) funding from non-HUD sources or from HUD funding not provided under the Act. However, de-

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velopment of such units must be approved by HUD in advance for them to be eligible for inclusion under the ACC.

[61 FR 38016, July 22, 1996, as amended at 67 FR 76101, Dec. 10, 2002]

### §941.103 Definitions.

The terms *HUD* and *Public Housing Agency (PHA)* are defined in 24 CFR part 5.

*Act.* The U.S. Housing Act of 1937 (42 U.S.C. 1437).

*Additional Project Costs (APC)* means the sum of the following HUD-approved costs related to the development of a public housing project, which costs are not subject to the Total Development Cost limit but are included in the maximum project cost, as described in §941.306:

(1) Demolition of, or remediation of environmental hazards associated with, public housing units that will not be replaced on the site; and

(2) Extraordinary site costs that have been verified by an independent registered engineer (*e.g.*, removal of underground utility systems, and replacement of off-site underground utility systems, extensive rock and/or soil removal and replacement, and amelioration of unusual site conditions such as unusual slopes, terraces, water catchments, lakes, etc.)

*Annual Contributions Contract (ACC).* A contract (in the form prescribed by HUD) for loans and contributions, which may be in the form of grants, whereby HUD agrees to provide financial assistance and the PHA agrees to comply with HUD requirements for the development and operation of a public housing project.

*Community Renewal Cost (CRC)* means the sum of the following HUD-approved costs related to the development of a public housing project: planning (including proposal preparation), administration, site acquisition, relocation, demolition of, and site remediation of environmental hazards associated with, public housing units that will be replaced on the project site, interest and carrying charges, off-site facilities, community buildings and non-dwelling facilities, contingency allowance, insurance premiums, any initial operating deficit, on-site streets, on-site utilities, and other costs necessary to